



PROFESSIONAL FIDUCIARIES BUREAU Frequently Asked Questions & Answers



GENERAL INFORMATION

Q. Who is the Professional Fiduciaries Bureau?

A. The Professional Fiduciaries Bureau is a new state agency created by the Legislature in 2006 to license and regulate private fiduciaries, including specified conservators, guardians, trustees, and agents under durable power of attorney for healthcare and finances.

Q. Who needs a Professional Fiduciary?

A. A person who needs help managing their personal finances or healthcare matters may hire a Professional Fiduciary to assist.

Q. When is licensing required for Professional Fiduciaries?

A. All mandated Professional Fiduciaries must be licensed by January 1, 2009, but between July 1, 2008 and December 31, 2008, a mandated Professional Fiduciary must be licensed to receive a new court appointment.

Q. When will the Professional Fiduciaries Bureau begin licensing Professional Fiduciaries?

A. The Professional Fiduciaries Bureau will issue the first licenses on July 1, 2008 to pre-approved candidates.

Q. Is there a separate license category for each type of fiduciary covered under the Professional Fiduciaries Act?

A. No. There is only one license category for all mandated Professional Fiduciaries.

Q. Once I obtain a license as a California Professional Fiduciary will I still be required to file with the Statewide Registry of Conservators, Guardians, and Trustees within the California Department of Justice?

A. No. The California Department of Justice's Registry will sunset on June 30, 2008.

***ARE YOU A CALIFORNIA PROFESSIONAL FIDUCIARY?**

Q. If I am a fiduciary practicing in California do I need to be licensed?

A. It depends. You must be licensed as a California Professional Fiduciary if you act as a private conservator, guardian, trustee, or agent under durable power of attorney for healthcare or finances as defined in the Act.

Q. If I am a private conservator or private guardian do I need to be licensed as a California Professional Fiduciary?

A. It depends. You must be licensed if you are acting as a private conservator or private guardian for two or more persons at the same time who are not related to you or to each other.

Q. If I am a trustee or agent under durable power of attorney do I need to be licensed as a California Professional Fiduciary?

A. It depends. You must be licensed if you are acting as a trustee or agent under durable power of attorney for health care or for finances for more than three people or more than three families at the same time who are not related to you.

Q. If I am a public guardian or a public conservator do I need to be licensed?

A. No. You are not required to be licensed if you are a public officer or acting for a public agency of the State of California or for a county of California and you are acting as a conservator or guardian within the course and scope of that position.

Q. Are certain fiduciaries exempt from licensing under the Act?

A. Yes. As defined by the Act, attorneys, certified public accountants, employees of FDIC-insured institutions, public officers or employees of public agencies, broker dealers or investment advisors, enrolled agents for the IRS, and employees of trust companies or other companies regulated by the SEC, acting within the course and scope of employment are not required to be licensed by the Bureau.

Q. If I am a conservator for my elderly parents do I need to obtain a license as a California Professional Fiduciary?

A. No. The Act only applies to non-family member fiduciaries.

Q. If I am a conservator for my best friend's mother do I need to obtain a license as a California Professional Fiduciary?

A. No. To qualify under the Act you must be a conservator or guardian for two or more persons at the same time who are not related to you or to each other.

Q. If I am a conservator for my best friend's elderly parents do I need to obtain a license as a California Professional Fiduciary?

A. No. The two conservatees are related to each other.

Q. If I am a conservator for my best friend's elderly mother and for my teacher's elderly father do I need to obtain a license as a California Professional Fiduciary?

A. Yes. The two conservatees are not related to each other.

Q. If I am a trustee for one trustor do I need to obtain a license as a California Professional Fiduciary?

A. No. Under the Act only a person who is a trustee for more than three trustors for individuals or families must be licensed.

Q. If I am a trustee for more than three trustors who are related to each other do I need to obtain a license?

A. No. If the trustors are related to each other that only counts as one.

Q. If I am a trustee for one trustor of a family trust that includes more than three individual beneficiaries do I need to obtain a license?

A. No. The number of beneficiaries is irrelevant.

Q. If I am a trustee for a charitable trust do I need to obtain a license?

A. It depends. Only trustors for trusts that include at least one individual beneficiary are counted.

Q. If I work for a charitable trust do I need to obtain a license?

A. It depends. If you are acting on behalf of a charitable trust and are performing the functions of the trustee you would qualify for licensing if you manage trusts for more than three trustors who are not related to you.

Q. If I serve as trustee and conservator for my elderly parents do I need to obtain a license?

A. No. They are family.

***(See Business & Professions Code Sections 6501 and 6530 and Section 4406(e) of Article 1 of Division 41 of Title 16 of the California Code of Regulations)**

LICENSING & EXAMINATION

Q. How do I become licensed as a California Professional Fiduciary?

A. To become licensed as a California Professional Fiduciary you must receive approval from the Bureau after submitting an application package and passing the exam.

Q. When can I take the California Professional Fiduciary Licensing Examination?

A. After submitting your application package you must be deemed eligible by the Bureau to take the exam.

Q. How long do I have to take and pass the exam?

A. Once approved to take the exam, you will be eligible to take and pass the exam for a period of 12 months.

Q. Once deemed eligible, how do I register to take the exam?

A. The Center for Guardianship Certification (CGC) (formerly the National Guardianship Foundation) is the examination provider. You may register for the exam on the CGC website at www.guardianshipcert.org or by phone at (717) 238-4689.

Q. What if I do not pass the exam?

A. You will have a total of 4 more opportunities to take and pass the exam not to exceed one attempt every 30 days within your 12-month eligibility period.

Q. If I only act as a conservator under the Act is there an exam that is specific to conservators only?

A. No. There is only one type of exam that must be passed by all mandated Professional Fiduciaries.

Q. If I was a Professional Fiduciary before the legislation passed do I still need to take the exam?

A. Yes. The legislation did not include an exception to the exam for fiduciaries practicing prior to the creation of the licensing program.

Q. If I am a Registered Guardian by the CGC do I need to take the California Professional Fiduciary Licensing Examination?

A. Yes. The law did not include an exception to the exam for Registered Guardians.

Q. If I am a Registered Guardian and a Certified California Fiduciary do I need to take the California Professional Fiduciary Examination?

A. Yes. The law did not include an exception to the exam for fiduciaries whom are both Registered Guardians and Certified California Fiduciaries.

Q. What are the requirements for a California Professional Fiduciary once licensed?

A. A California Professional Fiduciary must comply with the licensing laws, with the applicable Rules of Court and all other relevant state and federal laws.

EDUCATION/EXPERIENCE QUALIFICATION

Q. If I have been a private fiduciary for 10 years, do I have the necessary experience to qualify for licensure?

A. Yes. Under the legislation, if you have been working as a private fiduciary for 5 or more years or have had 5 or more years experience working with substantive fiduciary responsibilities as defined in the Act, you have met the experience/education qualification for licensure.

Q. If I have an associate of arts degree and have worked as a fiduciary for only one year do I qualify for licensure?

A. No. You must have a baccalaureate degree of arts or sciences, or an associate of arts or sciences degree AND at least 3 years of required experience to qualify for licensure.

PRE-LICENSING PROFESSIONAL EDUCATION

Q. If I was a private fiduciary before the legislation passed do I still need to earn 30 hours of pre-licensing education credit to become licensed?

A. Yes. The legislation did not include an exception to the pre-licensing education credit requirement for licensure.

Q. What dates of qualifying courses can be applied to the pre-licensing education credit requirement?

A. The pre-licensing education credit must be earned in 2007 or later, except for courses taken from the Cal State Fullerton University Extended Education program, of which credits taken anytime can be applied; but, all credits must be earned by the time you submit your application package to the Bureau to be considered for licensure.

Q. If I earned a Certificate in Fiduciary Management from the Cal State Fullerton University Extended Education program in 2005 will this qualify for the 30 hours of pre-licensing education credit requirement?

A. Yes. A Certificate in Fiduciary Management from the Cal State Fullerton University Extended Education program earned anytime will qualify for the 30 hours of pre-licensing education credit requirement.

Q. What courses qualify for the pre-licensing education credit requirement for licensure?

A. You must take eligible education courses which are relevant to fiduciary responsibilities of estate management or of the person that impart knowledge or address the areas of proficiency, competency, and performance of a fiduciary in at least one of the following

subject topics: conservatorship, guardianship, trust administration, the California court system relative to fiduciaries, or ethics: and, the courses must be offered or approved by an approved educational entity in accordance with the Act to earn pre-licensing education credit.

Q. What approved educational entities may offer or approve eligible education courses?

A. The following educational entities may offer or approve eligible education courses in accordance with the requirements of the Act:

1. An accredited educational institution;
2. An education provider offering courses sponsored by a local court of the State of California;
3. An education provider offering courses approved by the California State Bar for continuing education;
4. An accountancy organization or an education provider, if the education qualifies with the California State Board of Accountancy for continuing education credit for renewal of an individual license as a Certified Public Accountant;
5. An education provider offering courses registered with the Certified Financial Planner Board of Standards, Inc.;
6. An education provider offering courses approved by the California Department of Insurance;
7. An education provider of continuing education courses approved by the California Board of Registered Nursing;
8. An education provider offering courses approved by the California Board of Psychology;
9. An education provider offering courses approved by the California Board of Behavioral Sciences;
10. The California Department of Mental Health, Social Services and Developmental Services;
11. The Professional Fiduciary Association of California;
12. The California State Association of Public Administrators, Public Guardians, and Public Conservators;
13. The National Guardianship Association and its state affiliates;
14. The National Association of Professional Geriatric Care Managers;
15. The American Bar Association;
16. The American Society of Aging;
17. The Gerontological Society of America;
18. The National Association of Social Workers;
19. The National College of Probate Judges;
20. The National Elder Law Foundation;
21. The American Bar Association and its training providers; and,
22. The Cannon Financial Institute.

Q. If I took a 3 hour education course in January 2007 in healthcare for seniors approved by the California Board of Registered Nursing for continued education would that count towards the 30 hours of pre-licensing education credit requirement?

A. Yes. The course is relevant to fiduciary responsibilities in at least one of the specified topics and is offered by an approved education provider.

QUESTIONS FOR CONSUMERS

Q. How do I verify the license of a California Professional Fiduciary?

A. The license of a California Professional Fiduciary will be verifiable on the Bureau's website once the fiduciary becomes licensed.

Q. What if a licensed California Professional Fiduciary violates the law?

A. The Bureau can bring an enforcement action against a licensee who violates the law. Enforcement actions can result in fines, sanctions, and license suspensions or revocations. The Bureau may also refer suspected criminal cases to the Office of the Attorney General or to local district attorneys for criminal prosecution.

Q. What if a mandated Professional Fiduciary is practicing without a license.

A. It is a violation of the Bureau's laws to practice without a license and it is a crime subject to criminal prosecution.

Q. How do I file a complaint against a licensed California Professional Fiduciary?

A. You may contact the Bureau or visit the Bureau's website to obtain details on how to file a complaint against a licensee.